

BEFORE THE
Federal Communications Commission
WASHINGTON, D. C. 20554

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**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY**

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In the Matter of)
)
Amendment of Section 2.106 of)
the Commission's Rules to)
Allocate Spectrum at 2 GHz for)
Use by the Mobile-Satellite)
Service)

ET Docket No. 95-18

To: The Commission

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**REPLY COMMENTS OF APCO
IN RESPONSE TO
SUPPLEMENTAL COMMENTS OF COMSAT CORPORATION**

The Association of Public-Safety Communications Officials-International, Inc. ("APCO") hereby submits the following comments in response to the Supplemental Comments of COMSAT Corporation ("COMSAT") filed on March 14, 1996, in the above-captioned proceeding.

I. INTRODUCTION

APCO is the nation's oldest and largest public safety communications organization, with over 12,000 worldwide members involved in the management and operation of police, fire, emergency medical, forestry-conservation, highway maintenance, disaster relief, and other public safety communications facilities. Many of these public safety agencies operate critical microwave communications links in the 2100-2200 MHz bands, including the frequencies proposed

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for reallocation to Mobile Satellite Services ("MSS").^{1/} The Commission previously determined that there were over 4,000 microwave facilities licensed to public safety agencies in these bands (more than twice the number of public safety facilities in the 1850-1990 MHz band).^{2/}

APCO previously filed comments in this and other proceedings opposing the reallocation of 2 GHz spectrum currently used by public safety agencies for fixed microwave operations.^{3/} APCO has also indicated that, if such reallocation nevertheless occurs, incumbents must be fully compensated for the cost of relocation to comparable alternative frequencies, pursuant to the negotiated relocation procedures set forth in Section 94.59 of the Commission's rules.^{4/} Therefore, APCO strongly opposes COMSAT's proposal to scrap those rules and to force all incumbents to relocate at their own expense by the year

^{1/} Public safety and other private operational fixed microwave facilities operate in the 2130-2150/2180-2200 MHz band.

^{2/} FCC Office of Engineering & Technology, "Creating New Technology Bands for Emerging Telecommunications Technologies" (January, 1992). Perhaps the largest public safety licensee in the band is the State of California, with nearly 100 microwave links in the 2100-2200 MHz bands. The State of California, which is filing separate comments, has a network that supports the statewide mobile communications systems used by the California Highway Patrol, the Department of Forestry and Fire Protection, the Office of Emergency Services (which coordinates responses to earthquakes and other disasters), and other critical public safety operations.

^{3/} See, e.g., Comments of APCO (May 5, 1995)

^{4/} Id.

2005. APCO also objects to COMSAT's premature and unproven spectrum sharing proposal.

II. MSS LICENSES MUST PAY THE COST OF MICROWAVE RELOCATION.

The Commission's original rules for relocating incumbent microwave facilities from the 2 GHz "emerging telecommunications technology" bands allowed public safety microwave licensees to remain on the band indefinitely.^{5/} The Commission subsequently modified those rules and subjected public safety agencies to forced relocation on the premise that they would be entitled to relocation to fully comparable facilities and that the new technology licensees (whether PCS or MSS) seeking relocation would pay all of those relocation expenses.^{6/} The U.S. Court of Appeals affirmed that Commission's action, but did so based on the Commission's assurances that public safety incumbents would not be harmed and would not have to pay the cost of relocation.^{7/} Now, COMSAT is urging the Commission to ignore its commitment to public safety incumbents.

COMSAT bases its proposal on the incorrect presumption that most incumbent microwave facilities will be "fully amortised" and ready for replacement by 2005. In fact, the

^{5/} First Report and Order and Third Notice of Proposed Rulemaking in ET Docket 92-9, 7 FCC Rcd 6886 (1992).

^{6/} Memorandum Opinion and Order in ET Docket 92-9, 9 FCC Rcd 1943, 1947-48 (1994), recon. denied Second Memorandum Opinion and Order, 9 FCC Rcd 7797 (1994).

^{7/} APCO v. FCC, No. 95-1104, slip op. (D.C. Cir. Feb. 16, 1996).

average life of microwave equipment in this band is closer to 15-20 years, and even longer life-spans are not uncommon. Furthermore, the "life" of a path is hard to determine as microwave systems undergo constant modification and upgrades, with components being replaced on a regular basis. Because of their limited resources, state and local governments, in particular, are often forced to replace systems on a piecemeal basis and usually delay complete system replacement as long as possible.

At this point, many of the state and local microwave links in the 2100-2200 MHz bands are relatively new, as many were installed to provide the "backbone" for recently implemented 800 MHz trunked mobile radio systems. These paths would not normally be "replaced" until long after 2005. Forcing the premature replacement of these paths would impose undue financial hardship on taxpayers.

There are also serious questions as to whether adequate replacement spectrum will be available for relocating all of the 2 GHz incumbents. The forced exodus from the 1850-1990 MHz band to accommodate PCS is quickly depleting the 6 GHz and other frequencies bands allocated for private fixed microwave operations. Thus, under the COMSAT proposal, incumbents would not only be subject to eviction by MSS without any compensation for a new home, they would also face possible "homelessness" because of the lack of replacement frequencies. That would pose dire consequences

for all incumbents, especially those that provide public safety communications.^{8/}

COMSAT's principal argument for not applying the Commission's relocation rules to MSS is the supposed cost of relocation. As an initial matter, whatever the total cost, it must be borne by the new users of the band that benefit from relocation, not by the incumbents who are forced to relocate. COMSAT may also have overstated the aggregate cost of relocating all of the incumbent fixed microwave systems. While many, if not most, incumbents systems would still be in place by the time relocation is necessary, some significant number are likely to have been relocated voluntarily in the meantime. Thus, the total cost to MSS licensees may be well below COMSAT's estimate.^{2/}

III. COMSAT'S SPECTRUM SHARING PROPOSAL IS PREMATURE AND UNPROVEN.

APCO also opposes COMSAT's highly speculative spectrum sharing proposal. APCO agrees with the prior comments of UTC and API, which explain that COMSAT has mischaracterized the ITU actions to date regarding the feasibility of spectrum sharing between MSS and fixed services. In any

^{8/} In a few instances, alternative media such as fiber optic cable may be a viable replacement. However, for most incumbents the cost of fiber is prohibitive. Installing fiber is not feasible at any cost for linking mountaintop and other remote sites now linked by microwave. Nor is it a reliable alternative for public safety communications in California and other earthquake-prone areas.

^{2/} To the extent that MSS may be able to share the band with at least some incumbents, that too would reduce the total cost of relocation.

event, this issue must first be submitted to the appropriate Telecommunications Industry Association ("TIA") technical committee for analysis. Public safety agencies use fixed microwave systems to provide critical emergency communications. Therefore, they have zero tolerance for interference and are unwilling to accept spectrum sharing absent undisputed proof that no harmful interference will occur.


CONCLUSION

For the reasons discussed above, the Commission must reject COMSAT's proposals set forth in its Supplemental Comments.

Respectfully submitted,

ASSOCIATION OF PUBLIC-SAFETY
COMMUNICATIONS OFFICIALS-
INTERNATIONAL, INC.

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May 17, 1996

CERTIFICATE OF SERVICE

I, Jane Nauman, hereby certify that a copy of the foregoing "Reply Comments of APCO in Response to Supplemental Comments of COMSAT Corporation" was served this 17th day of May, 1996, by first-class mail, postage prepaid, to the following individual at the address listed below:

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Jane Nauman